



Oklahoma Funeral Board
3700 N. Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118
405.522.1790

MEMORANDUM & BOARD PACKET

October 8, 2021

TO: MEMBERS

Tom Coble
J. Cooper
Joe Highberger
Brent Matherly
Jim Roberts
Mike Sanders
Chad Vice

BOARD STAFF

Ron DeWitt
Shayne Melton
Ashton Poarch, AAG
Rochelle Robinson
Thomas Schneider, AAG

FR: Tyler Stiles

RE: October 14, 2021 Regular Board Meeting

Please find the attached October 14, 2021 Oklahoma Funeral Board agenda and the drafted September 22, 2021 special meeting minutes. If you have any questions or if you cannot attend next week's meeting, please contact me.

Tyler Stiles, MBA
Executive Director
Oklahoma Funeral Board

OKLAHOMA FUNERAL BOARD
3700 North Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118

NOTICE OF REGULAR MEETING

MEETING PLACE: Videoconference at

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

DATE & TIME: October 14, 2021 10:00AM

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on October 8, 2021 at 1:30PM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

If attending via videoconference or via telephone Continuing Education credit will not be provided for this meeting. If you plan to attend a Board meeting for Continuing Education credit and would like a rough estimate of the length of time Board staff estimates the meeting might last, please email your request to info@funeral.ok.gov.

*** This symbol denotes the application and/or applicant is not in compliance with 235:1-1-2 (c) (14 day Rule)

ORDER OF BUSINESS: The Board may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or decide not to discuss any item on the agenda.

1. Roll Call

2. Reading of the Oklahoma Funeral Board mission statement

The mission of the Oklahoma Funeral Board is to act in the public interest and for the protection of the public within the powers vested in the Board by the State of Oklahoma for the regulation and education of the funeral service profession.

3. Approval of the September 22, 2021 Special Board meeting minutes
4. Oklahoma Funeral Director Association Update from a Representative of OKFDA.

5. Review complaints with possible vote for probable cause or other action

22-03- Embalming Issues

22-04- Not Returning Cremated Remains

22-06- Body Preparation Issues

22-07- Overcharging

22-08- Body Intake Log Issues

6. Matters for consideration: Consent Order or Scheduling Order

At the conclusion of the parties' presentation and any questions or public discussion by the Board, the Board may in each complaint case:

- i. consider and vote on motion(s) to conduct executive session(s) pursuant to 25 O.S.2011, Section 307(B)(8) to engage in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;
- ii. if an executive session is held, designate a person to keep written minutes of the executive session;
- iii. consider and vote on motion(s) to exit executive session and return to open meeting; and
- iv. consider and vote on motion(s) regarding possible action to be taken regarding matter discussed in executive session.

6A. Complaint 21-51 Nichols-Stephens Funeral & Cremation Services, Establishment, Grove; Nichols-Stephens Funeral & Cremation Services, Limited, Owner, Grove; Karin Stephens, FDIC, Grove.

Member Cooper needs to be recused.

- 6B. Complaint 21-54 Delozier Funeral Service, LLC, Chelsea; Delozier Funeral Service, LLC, Owner, Chelsea; Kenneth Delozier, FDIC, Chelsea. Member Cooper needs to be recused.

7. Vote to affirm or disaffirm the issuance of the following licenses, registrations, certificates, dissolution or other action

A. Apprenticeship (Original)

1. Cecil Richards, Idabel, Nunley's FH, Idabel
2. Lance Pardue, Hugo, Prater Lampton Mills and Coffey, Hugo
3. Tyler Johnson, Commerce, Brown-Winters FH, Miami
4. Roosevelt Murray, Idabel, Nunley FH, Idabel
5. Taylor Harris, Edmond, Buchanan FS, OKC
6. Jordyn Coulson, Stillwater, Strobe FH, Stillwater
7. Graciela Guillen, Woodward, Billings FH, Woodward
8. Mathew Burch, Antlers, Serenity FS, Antlers
9. John Davis, Swink, Miller and Miller FH, Hugo
10. Jessie Hopkins, Colbert, Prater-Lampton-Mills-Coffey, Hugo
11. Samantha Hays, Duncan, Bailes-Polk FH, Duncan
12. Roy Kerns, Adair, Shipman's, Pryor

B. Apprenticeship (1st extension)

1. Emily Vickery, Arapaho, Ingram, Smith & Turner, Yukon
2. Addison Ray, Clinton, Corbett FH, OKC
3. Haley Buller, Yukon, Ingram Smith & Turner, Yukon

C. Apprenticeship (3rd extension)

1. Stephen Smith, Midwest City, Ford FS, Midwest City
2. Hillary Hatchett, OKC, Resthaven FH, OKC

D. Apprenticeship (FD only) (Original)

1. Debra-Emily Crump, Choctaw, Hibbs FH, Choctaw

E. Funeral Director and/or Embalmer (Reciprocal)

1. Kendra Soley, Mississippi

F. Funeral Director and/or Embalmer (Original)

1. Melanie Holcomb, Newkirk
2. Christopher Gann, Broken Bow (FD Only)
3. Kristen Kennedy, Calumet

G. Establishments

1. McElyea & Owens Funeral Group, LLC, Shawnee, New Establishment, McElyea & Owens Funeral Group, LLC, Owner, Michael McElyea, FDIC.
2. Dighton-Moore Funeral Service, Owasso, request to close establishment.
3. Dighton-Moore Funeral Service, Owasso, New Establishment, R & S Funeral Homes, Inc., Owner, John Irby, FDIC

4. CremationCare+, Tulsa, request to change FDIC from Bill Cotton to Rex Whitetree
5. Rice Funeral & CremationCare +, Catoosa, request to change FDIC from Bill Cotton to Rex Whitetree
6. Signature Cremation & Funeral Care, OKC, request to close establishment.
7. Signature Cremation & Funeral Care, The Village, New Establishment, Crawford Family Funeral and Cremation, Edmond, Owner, Kyle Borowicz, Edmond, FDIC
8. McKay-Davis & Tate Funeral Home & Cremation, OKC, request name change to McKay-Davis Funeral Home, Inc.
9. Sevier FH, Chickasha, request to change FDIC from Larry Sevier to Austin Kile
10. Sevier FH, Tuttle, request to change FDIC from Larry Sevier to Austin Kile

H. Crematory

1. Heartland Cremation Service, LLC, Chandler, New Crematory, Brown's Family Funeral Home, LLC, Owner, Tim Alonzo, FDIC

8. **New Business.** Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda. 25 O.S. Section 311.9.

9. **Discussion and Possible Action Regarding Proposed Rule or Statute changes for next Legislative Session pertaining to the following:**

- A. Quorum Amount Change
- B. Licensing education requirements
- C. FD Only additional hours requirement

D. FD Assistant License

10. Executive Director's Report

- A. Agency Financial update
- B. Free PPE from Department of Health

11. Adjournment

Tyler Stiles, MBA
Executive Director

The next regular meeting of the Oklahoma Funeral Board will be held:
Wednesday, November 10, 2021. Office of Chief Medical Examiner –OKC 921
N.E. 23rd Street Conference Room – 1st Floor Oklahoma City, OK 73105.



MINUTES OF A SPECIAL MEETING

OKLAHOMA FUNERAL BOARD
3700 N. Classen, Suite 175
Oklahoma City, Oklahoma 73118

September 22, 2021

BOARD MEMBERS

Tom Coble
J. Cooper
Joe Highberger
Brent Matherly
Jim Roberts
Mike Sanders
Chad Vice

STAFF

Shayne Melton
Rochelle Robinson
Marie Schuble, AAG
Tyler Stiles

MEETING PLACE: MEETING PLACE: Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>
We ask that only Board Members, Staff, and Respondents use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105. Face masks are required to be worn if attending in person.

This Board meeting notice and agenda was posted on our web site (www.ok.gov/funeral) on September 17, 2021 at 12:30pm

Continuing Education credit was not provided for this meeting if attended via videoconference or telephone.

President Highberger called the meeting to order at 10:00AM. Board Members Cooper, Highberger, Roberts, Sanders, and Vice were present. Members Coble and Matherly were absent. A quorum was always present.

Reading of the Oklahoma Funeral Board mission statement:

The mission of the Oklahoma Funeral Board is to act in the public interest and for the protection of the public within the powers vested in the Board by the State of Oklahoma for the regulation and education of the funeral service profession.

Motion by Roberts second by Sanders to approve the August 12, 2021 Regular Board meeting minutes. The motion passed unanimously with Member Vice abstaining.

Penny Vasquez, the new manager of the Regulated Industry Services Division with OID introduced herself along with Shay Turner, Rowena Ehrman, and Lorie Jones.

Motion by Roberts second by Sanders to find probable cause on complaint 22-01 regarding body intake log issues. The motion passed unanimously.

Motion by Roberts second by Sanders to dismiss complaint 22-02 regarding next of kin issues. The motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 21-50 Lawson's Funeral Homes & Cremation Services, Establishment, Grove; Lawson's Funeral Homes & Cremation Services, LLC, Owner, Grove; Shaunda Lawson, FDIC, Jay. Respondent Shaunda Lawson was present. The prosecution was represented by Marie Schuble, AAG. Thomas Schneider, AAG, was the Board's legal advisor. Members Highberger, Roberts, Sanders, and Vice heard the case. Member Cooper was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Sanders to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failing to obtain other necessary permits as required by law in a timely manner, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Administrative Penalty of \$1,000 and Costs of \$500. Motion passed unanimously.

Member Cooper reentered the room.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (Original) Nicholas Holdeman, Ames, Lanman FH, Helena;
Lawanda Colbert, MWC, Rolfe, OKC; Thomas Applegate, Wagoner, Mallet FH,
Wagoner; Brandon Plowman, Edmond, OMS, OKC (EM only); Jared Williams,
Stratford, DeArman, Stratford; Jeffery Wright, Spencer, McKay Davis Tate,
OKC; Scott Freeze, Idabel, Nunley FH, Idabel; Perry Simpson, Noble,
McMahans FH, Noble; Mercedes Castro, Del City, Yanda & Son, Yukon. The
motion passed unanimously.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (1st extension) Mylei Saysana, Edmond, Smith & Kernke, OKC,
Brighton Potter, Tulsa, Gary Kelley Add'vantange Funeral and Cremation,
Tulsa; Kendra Soley, Skiatook, Stanley's FH, Tulsa. The motion passed
unanimously.

Motion by Roberts second by Highberger to table the following:
Apprenticeship (1st extension) Emily Vickery, Arapaho, Ingram, Smith &
Turner, Yukon. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (2nd extension) Monica Lam, Shawnee, Smith-Parks F.S.,
Harrah; Disney Cain, Wilburton, Bishop F.S., McAlester; Tyler Harrell, Sallisaw,
Forever Memories, Sallisaw. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (3rd extension) Paige Goodman, Moore, Mercer-Adams,
Bethany. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (4th extension) Melvin Blagg, Durant, Brown's FS, Durant. The
motion passed unanimously.

Motion by Roberts second by Highberger to approve the following:
Apprenticeship (FD only) (Original) Becky Shupe, Tonkawa, Trout FH, Ponca
City; Sammy Jones, Shawnee, AE Funeral Services, Shawnee; Larry Alberty,
Grant, Nunley FH, Idabel; Roy Gray, Jr. OKC, Ingram Smith & Turner, Yukon.
The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Funeral
Director and/or Embalmer (Reciprocal) Martha Aponte-Hittle, Kansas. The
motion passed unanimously.

Motion by Roberts second by Sanders to table the following: Funeral Director and/or Embalmer (Reciprocal) Kendra Soley, Mississippi. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Funeral Director and/or Embalmer (Original) Hollis Griffin, Jr., Sapulpa (FD Only); Cade Harkins, Wilburton; Lada Feldman, OKC; Darian Foor, OKC; Matthew Witten, Purcell. The motion passed unanimously.

Motion by Roberts second by Highberger to table the following: Funeral Director and/or Embalmer (Original) Melanie Holcomb, Newkirk; Christopher Gann, Broken Bow (FD Only). The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Establishments, Heath Griffith FH, Tulsa, request to close establishment.; Oklahoma Mortuary Trade Service, OKC request to change FDIC from Toni Blake to John Astle.; Mason FH, Shattuck, requests to change FDIC from Clarence Rogers to Scotty Schilling.; Brumley Funeral Home, Broken Bow, request to close establishment.; Bowser Family Funeral Home, Broken Bow, New Establishment, Bowser Brumley Funeral Home, LLC, David Bowser FDIC.; Luginbuel FH, Vinita, requests FDIC change from Alan Cowley to Joseph Faulkner.; Luginbuel South Grand Lake FH, Langley request FDIC change from Alan Cowley to Joseph Faulkner.; Rice F.S., Claremore, request FDIC change from Jackie Shurden to Cynthia Ross.; Smith FH, Sapulpa, request FDIC change from Cynthia Ross to Deena Nickerson. The motion passed unanimously.

Motion by Roberts second by Highberger to table the following: Establishments, McElyea & Owens Funeral Group, LLC, Shawnee, New Establishment, McElyea & Owens Funeral Group, LLC, Owner, Michael McElyea, FDIC. The motion passed unanimously.

Motion by Roberts second by Highberger to approve the following: Crematories, Oklahoma Mortuary Trade Service, OKC, request FDIC change from Toni Blake to John Astle.; Green Country Cremation Center, Sapulpa, request FDIC change from Cynthia Ross to Deena Nickerson. The motion passed unanimously.

No New Business was discussed

Executive Director's Report- Agency Financial update- Mr. Stiles reported gross receipts for August 2021 to be \$12,917.50 with \$1,036.75 going to the State of Oklahoma general fund. The expenses for the same timeframe totaled \$42,473.94 and net income after expenses totaled -\$30,593.19.

Review by the Attorney General's Office regarding the Open Records Act, the Open Meeting Act, and State Ethics Rules. Board Advisor Thomas Schneider provided training to the Board and staff regarding the Open Meeting Act and Open Records Act.

Motion by Roberts second by Highberger to adjourn the meeting at 2:00PM. The motion passed unanimously.

Joe Highberger
Oklahoma Funeral Board President

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**NICHOLS-STEPHENS FUNERAL &
CREMATION SERVICES**

A Licensed Funeral Establishment,
Establishment License # 1942ES
10201 Highway 59 N
Grove, OK 74344

owned by:

**NICHOLS-STEPHENS FUNERAL &
CREMATION SERVICES, LIMITED**

10201 Highway 59 N
Grove, OK 74344

KARIN STEPHENS

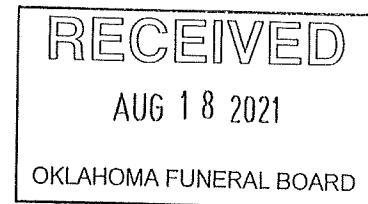
Licenses: 3485FD and 3850EM,
Address: 10201 Highway 59 N
Grove, OK 74344

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

**NICHOLS-STEPHENS FUNERAL &
CREMATION SERVICES,**

Respondents.

Complaint No. 21-51



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Marie Schuble, and alleges that the Respondents, an Establishment and a Funeral Director in Charge, duly licensed by the Board have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 et seq, (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("OAC") Section 235:10-1-1 et seq, (the "Rules"), in the manner set forth below:

FACTUAL ALLEGATIONS

1. Respondent NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES, (“Funeral Home”), with establishment license number 1924ES, located at 10201 Highway 59 N, Grove, OK 74344, was at all relevant times owned by NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES, LIMITED, 10201 Highway 59 N, Grove, OK 74344, and as such, NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES, is liable and responsible for any penalty imposed in these proceedings.
2. Respondent KARIN STEPHENS is a licensed Funeral Director and Embalmer with license numbers 3485FD and 3850EM, and was the Funeral Director in Charge (“FDIC”) of Funeral Home at the time of the conduct giving rise to this complaint, and as the FDIC was responsible for the establishment’s legal and ethical operation pursuant to 59 O.S. § 396.2(12).
3. On or about June 3, 2021, Board staff conducted an inspection of the Funeral Home and determined that the Body Intake Log was deficient: not all bodies received at the Funeral Home were listed in the Log; there were no dates or times reflecting when the bodies were received; the dates and times of embalming were not listed in the Log; the embalmer did not sign the Log; the name, signature and embalmer license number was not in the Log; and the name, signature and apprentice license number was not in the Log. The Establishment was provided with a copy of the inspection report.
4. On June 21, 2021, Board staff filed a complaint with the Oklahoma Funeral Board, and notice was subsequently provided to the Respondents by letter dated June 21, 2021. On June 28, 2021, the Respondents filed with the Board their response to Complaint 21-51, stating as follows:
 - a. Respondents apologized to the Board for the deficiencies noted in the inspection and included an updated and complete Body Intake Log.

5. This matter was presented to the Board on August 12, 2021, for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

6. The prosecution has sufficient evidence which if presented to the Board at an evidentiary hearing would constitute clear and convincing evidence of the violations alleged.

ALLEGED CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondents pursuant to 59 O.S. § 396.2a(9) and (11).
2. The statutory list of relevant violations for which the Board may suspend or revoke a license is found at 59 O.S. § 396.12c, which provides:

After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

5. Violation of any of the provisions of the Funeral Services Licensing Act or any violation of Sections 201 through 231 of Title 8 of the Oklahoma Statutes;

8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;

3. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(5) by failing to have a complete and up-to-date Body Intake Log. Board rule OAC 235:10-3-2(5)(vii) with emphasis added provides:

(vii) **Body Intake Log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. **The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s).** If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

4. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(10) by failing to list the FDIC on the Body Intake Log. Board rule OAC 235:10-3-2(10) provides:

(10) Funeral Director in Charge. The Funeral Director in Charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and **on the body intake log**.

5. As the Funeral Director in Charge at the times in question, KARIN STEPHENS is responsible for the legal and ethical operation of NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES, and is accountable to the Board under 59 O.S. § 396.2(12).

59 O.S. § 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. § 396.2(12). The “‘Funeral director in charge’ means an individual licensed as a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.”

6. Respondents NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES, and KARIN STEPHENS are subject to disciplinary action by the Board pursuant to 59 O.S. §§ 396.2a(9), 396.12c(5), 396.12c(8), 396.12d and 396.12e. The violation of any Board rule or of a provision of the Funeral Services Licensing Act subjects to discipline the respective Respondents who violated it. 59 O.S. §§ 396.12(c)(5)(violation of statute) and (8)(violation of rule).

POTENTIAL PENALTIES THE BOARD MAY IMPOSE

1. The Board may impose a variety of penalties for violation of the Act or of Board Rules, including: (1) denial, revocation, suspension or nonrenewal of license; (2) imposition of administrative fines; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c, 396.12d and 396.12e.

2. Potential administrative penalties identified in 59 O.S. § 396.12e are:

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or

order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board ", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

NOTICE OF HEARING

In accordance with the jurisdiction granted this tribunal in 59 O.S. §§ 396.2a(7) & (9), 396.12c, 396.12d and 396.12e a **joint proposed Consent Order** may be presented at the Board meeting on: **THURSDAY, OCTOBER 14, 2021, at 10:00 A.M..**

MEETING PLACE:

Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard> We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

If no Consent Order is presented or approved by the Board on October 14, 2021, then an **EVIDENTARY HEARING** will be held at the same meeting on: **THURSDAY, OCTOBER 14, 2021, at 10:00 A.M.**

If it be the decision of the Board, after considering all of the evidence presented, that a Respondent is in violation of any of the above-referenced law, the Board may take whatever appropriate action that is provided for in its rules and statutes. The Respondents are advised that in accordance with the above-referenced legal authority that they have the right to appear personally, the right and obligation to submit a written response, and the right to appear through an attorney. In addition, the Respondents have the right to cross-examine witnesses and present evidence on their own behalf.

However, if a Respondent is not a person but is instead an entity such as a corporation or an LLC, although the corporation or LLC may by law enter into a consent order without an attorney, if an evidentiary hearing is required the Respondent corporation or LLC by law may only cross-examine witnesses, present evidence and/or defend itself at the hearing if it is represented by an attorney licensed in the State of Oklahoma. *See Redcorn, Jr., v. Knox*, 2014 OK CIV APP 109, 345 P.3d 392 (an agreed order is in the nature of a contract by which a corporation is bound even if not represented by an attorney); *Massongill v McDevitt*, 1989 OK CIV APP 82, 828 P.2d 438 (although a person may appear at a hearing and represent himself/herself without an attorney, a person is not able to appear on behalf of a corporation, regardless of the person's interest in the corporation or authorization by the corporation, unless the person is a licensed attorney). If a Respondent corporation or LLC chooses not to retain an attorney, although it may not under such circumstances present evidence on its own behalf, the Board might consider favorable (or unfavorable) evidence submitted by co-Respondents or the

State when considering the violations alleged against the Respondent corporation or LLC. *See Enochs v. Martin*, 1997 OK 132, 954 P.2d 124 (even though a corporation had no attorney and was therefore in default, the court could in the absence of any objection at the hearing consider in the corporation's favor evidence offered in the case in joint defense by one of the other named parties).

Therefore, the Respondents are directed to appear at said hearing on said date and time. If a Respondent does not appear in person or through an attorney, the hearing will be held in its absence. **Note: OAC Section 235:10-7-2(21) requires that each Respondent must submit to the Board a response to this Complaint within ten (10) days of receipt of the Complaint.**

Respectfully submitted:



Marie Schuble, OBA # 30247
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
Marie.Schuble@oag.ok.gov
Attorney for Oklahoma Funeral Board

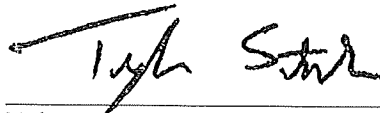
CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2021, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

NICHOLS-STEPHENS FUNERAL & CREMATION SERVICES
10201 Highway 59 N
Grove, OK 74344

KARIN STEPHENS
10201 Highway 59 N
Grove, OK 74344

A handwritten signature in black ink, appearing to read "Tyler Stiles", is written over a horizontal line.

Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

DELOZIER FUNERAL SERVICE, LLC.

A Licensed Funeral Establishment,
Establishment License # 1861ES
806 Walnut
Chelsea, OK 74016

owned by:

DELOZIER FUNERAL SERVICE, LLC.

806 Walnut
Chelsea, OK 74016

KENNETH DELOZIER, JR.,

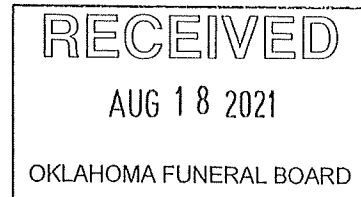
Licenses: 3331FD and 3696EM,
Address: 21990 E. HWY 28
Chelsea, OK 74016

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

DELOZIER FUNERAL SERVICE, LLC.,

Respondents.

Complaint No. 21-54



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Marie Schuble, and alleges that the Respondents, an Establishment and a Funeral Director in Charge, duly licensed by the Board have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 et seq, (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("OAC") Section 235:10-1-1 et seq, (the "Rules"), in the manner set forth below:

FACTUAL ALLEGATIONS

1. Respondent DELOZIER FUNERAL SERVICE, LLC., (“Funeral Home”), with establishment license number 1861ES, located at 806 Walnut, Chelsea, OK 74016, was at all relevant times owned by DELOZIER FUNERAL SERVICE, LLC., 806 Walnut, Chelsea, OK 74016, and as such, DELOZIER FUNERAL SERVICE, LLC., is liable and responsible for any penalty imposed in these proceedings.
2. Respondent KENNETH DELOZIER, JR. is a licensed Funeral Director and Embalmer with license numbers 3331FD and 3696EM, and was the Funeral Director in Charge (“FDIC”) of Funeral Home at the time of the conduct giving rise to this complaint, and as the FDIC was responsible for the establishment’s legal and ethical operation pursuant to 59 O.S. § 396.2(12).
3. On or about June 8, 2021, Board staff conducted an inspection of the Funeral Home and determined that the Body Intake Log was deficient, and prices were not displayed on the caskets. The deficiencies of the Body Intake Log included: name of the FDIC was not listed on the Log; not all bodies received at the Funeral Home were listed in the Log; there were no dates or times reflecting when the bodies were received; the dates and times of embalming were not listed in the Log; the embalmer did not sign the Log; and the embalmer license number was not in the Log. The Establishment was provided with a copy of the inspection report.
4. On June 21, 2021, Board staff filed a complaint with the Oklahoma Funeral Board, and notice was subsequently provided to the Respondents by letter dated June 21, 2021. On June 28, 2021, the Respondents filed with the Board their response to Complaint 21-54, stating as follows:
 - a. Respondents believe that all necessary steps have been taken to correct the deficiencies noted in the inspection and included with the response an updated Log and photographs of the caskets with prices displayed.

5. This matter was presented to the Board on August 12, 2021, for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

6. The prosecution has sufficient evidence which if presented to the Board at an evidentiary hearing would constitute clear and convincing evidence of the violations alleged.

ALLEGED CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondents pursuant to 59 O.S. § 396.2a(9) and (11).
2. The statutory list of relevant violations for which the Board may suspend or revoke a license is found at 59 O.S. § 396.12c, which provides:

After notice and hearing pursuant to Article II of the Administrative Procedures Act, the Oklahoma Funeral Board may refuse to issue or renew, or may revoke or suspend, any license or registration for any one or combination of the following:

5. Violation of any of the provisions of the Funeral Services Licensing Act or any violation of Sections 201 through 231 of Title 8 of the Oklahoma Statutes;

8. Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act;

3. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(5) by failing to have a complete and up-to-date Body Intake Log. Board rule OAC 235:10-3-2(5)(vii) with emphasis added provides:

(vii) **Body Intake Log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. **The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s).** If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

4. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-3-2(10) by failing to list the FDIC on the Body Intake Log. Board rule OAC 235:10-3-2(10) provides:

(10) Funeral Director in Charge. The Funeral Director in Charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and **on the body intake log.**

5. Respondents violated 59 O.S. § 396.12c(8) when they violated OAC 235:10-7-2(5) by failing to display prices on the caskets displayed for sale, which is a violation of 36 O.S. § 6127:

Any organization or person offering for sale caskets or other articles of merchandise incidental to burial or funeral services shall prominently display thereon the retail price of said caskets, or other articles of merchandise.

6. As the Funeral Director in Charge at the times in question, KENNETH DELOZIER, JR. is responsible for the legal and ethical operation of DELOZIER FUNERAL SERVICE, LLC., and is accountable to the Board under 59 O.S. § 396.2(12).

59 O.S. § 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. § 396.2(12). The “‘Funeral director in charge’ means an individual licensed as a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.”

7. Respondents DELOZIER FUNERAL SERVICE, LLC., and KENNETH DELOZIER, JR. are subject to disciplinary action by the Board pursuant to 59 O.S. §§ 396.2a(9), 396.12c(5), 396.12c(8), 396.12d and 396.12e. The violation of any Board rule or of a provision of the Funeral Services Licensing Act subjects to discipline the respective Respondents who violated it. 59 O.S. §§ 396.12(c)(5)(violation of statute) and (8)(violation of rule).

POTENTIAL PENALTIES THE BOARD MAY IMPOSE

1. The Board may impose a variety of penalties for violation of the Act or of Board Rules, including: (1) denial, revocation, suspension or nonrenewal of license; (2) imposition of

administrative fines; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c, 396.12d and 396.12e.

2. Potential administrative penalties identified in 59 O.S. § 396.12e are:

A. Any person or entity who has been determined by the Oklahoma Funeral Board to have violated any provision of the Funeral Services Licensing Act or any rule or order issued pursuant thereto may be liable for an administrative penalty. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The Board shall be authorized, at its discretion, to take action as the nature of the violation requires. The Board shall have the authority to impose on the licensee, or certificate holder, as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation. The costs may include but are not limited to staff time, salary and travel expenses, witness fees and attorney fees, and shall be considered part of the order of the Board.

C. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act. The Board shall make a report of any action to any entity deemed appropriate for transmittal of the public record but shall in no cause be held liable for the content of the reported action or be made a party to any civil liability action taken as a result of the discipline imposed by the Board. All monies collected from the administrative penalties shall be deposited with the State Treasurer and by the State Treasurer placed in the "Fund of the Oklahoma Funeral Board ", created pursuant to Section 17 of this act.

D. Any license or certificate of apprenticeship holder may elect to surrender the license or certificate of apprenticeship of the person in lieu of said penalty but shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.

NOTICE OF HEARING

In accordance with the jurisdiction granted this tribunal in 59 O.S. §§ 396.2a(7) & (9), 396.12c, 396.12d and 396.12e a **joint proposed Consent Order** may be presented at the Board meeting on: **THURSDAY, OCTOBER 14, 2021, at 10:00 A.M..**

MEETING PLACE:

Videoconference at <https://oklahomafuneralboard.my.webex.com/meet/Funeralboard> We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

If no Consent Order is presented or approved by the Board on October 14, 2021, then an **EVIDENTARY HEARING** will be held at the same meeting on: **THURSDAY, OCTOBER 14, 2021, at 10:00 A.M.**

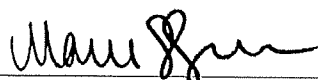
If it be the decision of the Board, after considering all of the evidence presented, that a Respondent is in violation of any of the above-referenced law, the Board may take whatever appropriate action that is provided for in its rules and statutes. The Respondents are advised that in accordance with the above-referenced legal authority that they have the right to appear personally, the right and obligation to submit a written response, and the right to appear through an attorney. In addition, the Respondents have the right to cross-examine witnesses and present evidence on their own behalf.

However, if a Respondent is not a person but is instead an entity such as a corporation or an LLC, although the corporation or LLC may by law enter into a consent order without an attorney, if an evidentiary hearing is required the Respondent corporation or LLC by law may only cross-examine witnesses, present evidence and/or defend itself at the hearing if it is represented by an attorney licensed in the State of Oklahoma. *See Redcorn, Jr., v. Knox*, 2014 OK CIV APP 109, 345 P.3d 392 (an agreed order is in the nature of a contract by which a corporation is bound even if not represented by an attorney); *Massongill v McDevitt*, 1989 OK CIV APP 82, 828 P.2d 438 (although a person may appear at a hearing and represent himself/herself without an attorney, a person is not able to appear on behalf of a corporation, regardless of the person's interest in the corporation or authorization by the corporation, unless the

person is a licensed attorney). If a Respondent corporation or LLC chooses not to retain an attorney, although it may not under such circumstances present evidence on its own behalf, the Board might consider favorable (or unfavorable) evidence submitted by co-Respondents or the State when considering the violations alleged against the Respondent corporation or LLC. *See Enochs v. Martin*, 1997 OK 132, 954 P.2d 124 (even though a corporation had no attorney and was therefore in default, the court could in the absence of any objection at the hearing consider in the corporation's favor evidence offered in the case in joint defense by one of the other named parties).

Therefore, the Respondents are directed to appear at said hearing on said date and time. If a Respondent does not appear in person or through an attorney, the hearing will be held in its absence. **Note: OAC Section 235:10-7-2(21) requires that each Respondent must submit to the Board a response to this Complaint within ten (10) days of receipt of the Complaint.**

Respectfully submitted:



Marie Schuble, OBA # 30247
Assistant Attorney General
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Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2021, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

DELOZIER FUNERAL SERVICE, LLC.
806 Walnut
Chelsea, OK 74016

KENNETH DELOZIER, JR.,
21990E. HWY 28
Chelsea, OK 74016

A handwritten signature in black ink, appearing to read "Tyler Stiles", is written over a horizontal line.

Tyler Stiles, MBA
Executive Director

Tyler Stiles

From: OSDH Situation Room
Sent: Wednesday, October 6, 2021 10:29 AM
Subject: Personal Protective Equipment (PPE) - Available at OSDH Warehouse- Tuesday, October 12, 2021
Attachments: '21 Warehouse Order Form.docx; PPE Menu.pdf; State RSS Warehouse Directions Map.pdf

PLEASE USE THIS EMAIL FOR INSTRUCTIONS AND DISTRIBUTION.

All Oklahoma Stakeholders and Partners,

Please distribute this message to all stakeholders and to any first responders organizations that could benefit from personal protective equipment at no cost to them for mitigation and response to COVID-19 or other infectious diseases/bloodborne pathogens while responding to incidents.

SPECIAL EVENT - NEXT TUESDAY OCTOBER 5th AND EVERY TUESDAY THEREAFTER UNTIL FUTHER NOTICE

The Oklahoma State Department of Health will open the warehouse from 9:00AM – 4:00PM for PPE pickup at no charge. Each week, a PPE selection menu will be sent out identifying which PPE items are available for pick-up.

Here is how your agency can be eligible PPE pick-up:

- Use the **attached PPE Menu** to see what PPE items will be available for pick-up at the warehouse.
- After reviewing the PPE Menu, fill out the **attached Warehouse Order Form** and return it to sitrm@health.ok.gov . PLEASE DO NOT REPLY TO ALL ON THIS MESSAGE. SEND THE FORM TO THE OSDH SITROOM ONLY
- On Tuesday, 05 October 2021 arrive at the warehouse between the hours of 9:00AM – 4:00PM. Address: 7725 W. Reno, Dock #8, Oklahoma City, OK 73127
- Persons picking up will remain in their vehicle and OSDH staff will assist you through the entire process.
- Please do NOT enter off of Council as you will be directed around to Rockwell to ensure the safety of our staff operating outside.
- When stopped at the Check-In Station, please put your vehicle in Park as to ensure the safety of the personnel at each Station.
- Persons picking up for facilities will need to show proof of identification for representing the facility they are receiving product for.
- There will be no limit on how much you can order, however you need to be able to transport all you order as we **WILL NOT** hold any at the facility for you to return at a later date.
-

ENTERING THE WAREHOUSE PROPERTY - 7725 W. Reno, Dock #8, Oklahoma City, OK 73127:

Please see below for instructions for entering the State RSS Warehouse property and instructions for PPE pickup.

1. Please enter onto Lucent Dr. from Rockwell between Reno Ave. and 10th St. **(See attached map)**
2. Follow the green arrows on the map around to a Security Guard Station where OSDH staff will be present.
3. Once there OSDH staff will control the flow of traffic and you will be sent onto the Check-In Station where OSDH staff will ask for your information and what product you would need.
4. You will be given the form and directed to move onto the Loading Station.
5. At the Loading Station a Picker will come to your vehicle receive the form from you and they will get your product for you and return with Loading staff to assist.
6. Once the product is loaded you will be directed to move forward and how to exit the facility.
7. Please stay on the right side of the road as vehicles will be passing by as the enter/exit the facility.

If you are an agency that already orders PPE through Big Commerce's on-line ordering system, this ordering process is still in place and you may order items as normal. This weekly special event is opened to you and other agencies that do not normally order PPE through Big Commerce.

OSDH Situation Room

Emergency Preparedness & Response Service

Oklahoma State Department of Health

Oklahoma.gov | health.ok.gov